

**501—6.3(80B) Prehearing procedures.**

**6.3(1) Subpoenas.** Prior to the commencement of a contested case, the council may exercise the authority to subpoena books, papers, and records and shall have all other subpoena powers conferred upon it by law.

**6.3(2) Commencement of contested case proceedings.** Contested case proceedings shall be commenced by the filing of a notice by the council or its designee requiring the affected law enforcement officer to appear and show cause why certification to be a law enforcement officer in the state of Iowa should not be revoked or suspended. Notice may be given in the same manner as the service of original notice or may be by certified mail, return receipt requested, which shall be sent no fewer than 30 days before the date set for the hearing. The petition shall include:

1. A statement of the time, place and nature of the hearing.
2. A statement of the legal authority and jurisdiction under which the hearing is held.
3. A reference to the particular sections of the statutes and rules involved.
4. A short and plain statement of the grounds for revocation or suspension and all other relevant facts.

Notice may also be sent in the manner aforementioned or by ordinary mail to any other interested party. After the delivery of the notice commencing the contested case proceedings, the presiding officer may allow further response of pleadings by the party as in the presiding officer's discretion is deemed necessary and appropriate.

**6.3(3) Discovery.** The rules of the Iowa supreme court applicable in civil proceedings with respect to depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property, for inspection and other purposes; physical and mental examinations; and request for admission shall apply to discovery procedures in contested case proceedings.

All applications for the taking of discovery shall be submitted to the presiding officer who shall determine the frequency of use of these discovery methods as in the presiding officer's discretion is deemed necessary or appropriate to aid the parties in preparation of the contested case proceeding, narrowing issues or valid reasons. When the council relies on a witness in a contested case, whether or not associated with the council, who has made prior statements or reports with respect to the subject matter of the witness's testimony, it shall, on request, make such statements or reports available to a party for use on cross-examination. Identifiable council records that are relevant to disputed material facts involved in a contested case shall, upon request, promptly be made available to the party.

Evidence obtained in such discovery may be used in contested case proceedings if the evidence would otherwise be admissible in the contested case proceedings.

**6.3(4) Prehearing conference.** The council or its designee, acting as presiding officer, upon the presiding officer's own motion or upon the written request of one of the parties may, in the presiding officer's discretion and upon written notice, direct the parties to appear at a specified time and place before the presiding officer for a prehearing conference to consider:

- a. The possibility or desirability of waiving any provision of these rules relating to contested case proceedings by written stipulation representing an informed mutual consent.
- b. A necessity or desirability of setting a new date for hearing.
- c. The simplification of issues.
- d. The necessity or desirability of amending the pleadings for purposes of clarification, amplification or limitation.
- e. The possibility of agreeing to the admission of facts, documents or records not substantially controverted, to avoid unnecessary introduction of proof.
- f. The procedure at the hearing.
- g. Limiting the number of witnesses.
- h. The names and identification of witnesses and the facts each party will attempt to prove at the hearing.
- i. Other matters as may aid in, expedite or simplify the disposition of the proceeding.

Since the stipulations are encouraged, it is expected and anticipated that the parties proceeding to a hearing will stipulate to evidence to the fullest extent to which complete or qualified agreement can be reached including all material facts that are not or should not fairly be in dispute. Any action taken at the prehearing conference shall be recorded in an appropriate manner unless the parties enter upon a written stipulation as to such matters or agree to a statement thereof made on the record by the presiding officer.

When an order is issued at determination of a prehearing conference, a reasonable time shall be allowed to the parties to present objections on the ground that it does not fully or correctly embody the agreements at the conference. Thereafter, the terms of the order or modification thereof shall determine the subsequent course of the proceedings relative to matters it includes unless modified to prevent manifest injustice.