

193F—29.3(543D) Procedures for vendor appeals. The board's chapter governing contested cases shall be applicable, except as otherwise provided in these rules.

29.3(1) Upon receipt of a notice of vendor appeal, the board shall issue a written notice of the date, time and location of the appeal hearing to both the aggrieved vendor or vendors and the successful vendor. Service of the written notice of hearing shall be sent to the email address provided by the appellant unless the appellant specifically requests that notice be mailed or sent by certified mail. Hearing shall be held within 60 days of the date the notice of appeal was received by the board.

29.3(2) All hearings shall be open to the public.

29.3(3) Discovery requests, if any, must be served by the parties within ten days of the filing of the notice of appeal. Discovery responses or objections are due at least seven business days prior to hearing.

29.3(4) At least three business days prior to the hearing, the parties shall exchange witness and exhibit lists. The parties shall be limited at hearing to the witnesses and exhibits timely disclosed unless the board finds good cause to allow additional witnesses or exhibits at hearing.

29.3(5) The hearing, at the option of the board or administrative law judge, may be conducted in person, by telephone, or on the Iowa communications network. When the hearing is not conducted in person, all exhibits must be delivered to the board or administrative law judge no less than two business days prior to the hearing.

29.3(6) Oral proceedings shall be recorded either by mechanized means or by certified shorthand reporters. Parties requesting that the hearing be recorded by certified shorthand shall bear the costs. Copies of tapes of oral proceedings or transcripts of certified shorthand reporters shall be paid for by the requester.

29.3(7) Any party appealing the issuance of a notice of award may petition for stay of the award pending the appeal's review. The petition shall be filed with the notice of appeal and shall state the reasons justifying a stay. The filing of the petition for stay does not automatically stay the award. The board may grant a stay when it concludes that substantial legal or factual questions exist as to the propriety of the award, the party will suffer substantial and irreparable injury without the stay, and the interest of the public or licensees will not be significantly harmed by the stay. A stay may be vacated at any time upon application by any party or the board on its own motion with prior notice to all parties.

29.3(8) The record of the contested case shall include all materials specified in Iowa Code section 17A.12(6) and any other relevant procedural documents regardless of their form.

29.3(9) The board or administrative law judge may request the parties to submit proposed findings and conclusions or briefs.

29.3(10) Any request for continuance must be in writing, specifying the grounds, and filed no later than seven business days prior to hearing.

29.3(11) Requests for rehearing shall be made to the board within 20 days of issuing a final decision. A rehearing may be granted when new legal issues are raised, when new evidence is available, when an obvious mistake is corrected, or when the decision is not necessary to exhaust administrative remedies.

29.3(12) The board's final decision may be reviewed by or appealed to the superintendent within 20 days of the board's decision in accordance with 193F—subrule 17.2(3). Appealing the board's final decision to the superintendent is a prerequisite to seeking judicial review, and failure to do so shall constitute a failure to exhaust administrative remedies and preclude judicial review. Following such intra-agency appeal, judicial review may be sought in accordance with the contested case provisions of Iowa Code section 17A.19.

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