

**281—41.1005(17A,256B) Convening the hearing.**

**41.1005(1)** *Announcements and inquiries by administrative law judge.* At the established time, the administrative law judge shall announce the name and nature of the case and inquire whether the respective parties or their representatives are present.

**41.1005(2)** *Proceeding with the hearing.* When it is determined that parties or their representatives are present, or that absent parties have been properly notified, the hearing may proceed. When any absent party has been properly notified, the means of notification shall be entered into the record. When notice to an absent party has been sent by certified mail, return receipt requested, the return receipt shall be placed in the record. If the notice was in another manner, sufficient details of the time and manner of notice shall be entered into the record. If it is not determined whether absent parties have been properly notified, the proceedings may be recessed at the discretion of the administrative law judge.

**41.1005(3)** *Types of hearing.* The administrative law judge shall establish with the parties that the hearing shall be conducted as one of three types:

- a. A hearing based on the stipulated record.
- b. An evidentiary hearing.
- c. A mixed evidentiary and stipulated record hearing.

**41.1005(4)** *Evidentiary hearing scheduled.* An evidentiary hearing shall be held unless both parties agree to a hearing based upon the stipulated record or a mixed evidentiary and stipulated record hearing.

**41.1005(5)** *Educational record part of hearing.* The educational record submitted to the department by the educational agency shall, subject to timely objection by the parties, become part of the record of the hearing.