

263—9.7(368) Prehearing activities.

9.7(1) Prehearing conference. An informal conference of parties may be ordered at the discretion of the committee chairperson or at the request of any party prior to a hearing in any proceeding. A written request for prehearing conference or an order for prehearing conference on the committee chairperson's own motion shall be filed not less than ten days prior to the hearing date. A prehearing conference shall be scheduled not less than five business days prior to the hearing date.

- a. Notice of a prehearing conference shall be provided as described in 9.2(4).
- b. A prehearing conference may be ordered for the purpose of formulating issues and considering:
 - (1) The simplification of issues.
 - (2) The necessity or desirability of amending the petition or other filings for the purpose of clarification, amplification or limitation.
 - (3) The possibility of making admissions of certain averments of fact or stipulations thereof, for the purpose of avoiding unnecessary proof.
 - (4) The procedure at the hearing.
 - (5) The propriety of prior mutual exchange of prepared testimony and exhibits between or among the parties.
 - (6) Such other matters as may aid in the simplification of the evidence and disposition of the proceeding.
- c. Recordation. Action agreed upon at the conference shall be made a part of the record in such manner as may be prescribed by the committee chairperson at the close of the conference.

9.7(2) Discovery. Parties involved in involuntary boundary adjustment proceedings shall follow the discovery procedures specified in the Iowa Rules of Civil Procedure. At the public hearings, such evidence may be introduced and entered into the record if the evidence would otherwise be admissible.

a. Discovery procedures applicable in civil actions are applicable in contested cases. Unless lengthened or shortened by these rules or by order of the committee chairperson, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure.

b. Any motion relating to discovery shall allege that the moving party has previously made a good-faith attempt to resolve the discovery issues involved with the opposing party. Motions in regard to discovery shall be ruled upon by the committee. Opposing parties shall be afforded the opportunity to respond within ten days of the filing of the motion unless the time is shortened as provided in subrule 9.4(3). The committee may rule on the basis of the written motion and any response, or may order argument on the motion.

c. Interrogatories, depositions and other documents and evidence discovered shall not be submitted to the committee prior to the public hearings. Evidence obtained in discovery may be used in the boundary adjustment proceeding if that evidence would otherwise be admissible in that proceeding.

9.7(3) Subpoenas. Witnesses who are subpoenaed are entitled to the same fees as are subpoenaed witnesses in the district court of Iowa. These fees shall be paid by the party at whose insistence the testimony is to be given. Service of subpoenas shall be in like manner as provided by law for service of subpoenas in the district court of Iowa.

a. Subpoenas shall be issued by the board's administrator or designee upon written request. Subpoenas issued may compel the attendance of witnesses at depositions or hearing, and may compel the production of books, papers, records, and other real evidence. A command to produce evidence or to permit inspection may be joined with a command to appear at deposition or hearing, or may be issued separately.

- b. A request for a subpoena shall include the following information, as applicable:
- (1) The name, address and telephone number of the person requesting the subpoena;
 - (2) The name and address of the person to whom the subpoena shall be directed;
 - (3) The date, time, and location at which the person shall be commanded to attend and give testimony;
 - (4) Whether the testimony is requested in connection with a deposition or hearing;
 - (5) A description of the books, papers, records or other real evidence requested;
 - (6) The date, time and location for production, or inspection and copying.

- c.* Each subpoena shall contain, as applicable:
- (1) The caption of the case;
 - (2) The name, address and telephone number of the person who requested the subpoena;
 - (3) The name and address of the person to whom the subpoena is directed;
 - (4) The date, time, and location at which the person is commanded to appear;
 - (5) Whether the testimony is commanded in connection with a deposition or hearing;
 - (6) A description of the books, papers, records or other real evidence the person is commanded to produce;
 - (7) The date, time, and location for production, or inspection and copying;
 - (8) The time within which a motion to quash or modify the subpoena must be filed;
 - (9) The signature, address and telephone number of the board's administrator or designee;
 - (10) The date of issuance;
 - (11) A return of service.
- d.* The board's administrator or designee shall mail or provide the subpoenas to the requesting party. The person who requested the subpoena is responsible for serving the subpoena upon the subject of the subpoena and providing copies of the subpoena to all parties to the proceeding.
- e.* Any person who is aggrieved or adversely affected by compliance with the subpoena, or any party to the contested case who desires to challenge the subpoena, must, within 14 days after service of the subpoena, or before the time specified for compliance if such time is less than 14 days, file with the board a motion to quash or modify the subpoena. The motion shall describe the legal reasons why the subpoena should be quashed or modified, and may be accompanied by legal briefs or factual affidavits.
- f.* Upon receipt of a timely motion to quash or modify a subpoena, the board may issue a decision. The board may quash or modify the subpoena, deny the motion, or issue an appropriate protective order. Prior to ruling on the motion, the board may schedule oral argument or hearing by telephone or in person.